

REMARKS

The pending Office Action addresses claims 1-6, all of which stand rejected. Applicants respectfully request reconsideration based on the remarks submitted herewith.

At the outset, Applicants thank Examiner Noguerola for the courtesy of a telephone interview on January 3, 2008.

Amendments to the Claims

Applicants amend claim 1 to match the language of claim 1 following the Examiner's Amendment that was filed on November 17, 2006. It is Applicants understanding that because the amendments were made in an Examiner's Amendment, the amendments were not entered upon Applicants subsequent filing of a Request for a Continued Examination. Support for the amendments can be found throughout the specification and figures, but at least at page 12, first full paragraph and page 19, first paragraph. Applicants amend claims 2-6 in light of the amendments to claim 1. No new matter is added.

Inventorship

The Examiner reminds Applicants of the obligation under 37 C.F.R. § 103(a) to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. § 103(c) and potential §§ 102(e), 102(f), 102(g) prior art under 35 U.S. C. § 103(a). As far as it is known to the undersigned, the subject matter claimed was commonly owned at the time any inventions covered herein were made.

Rejections Pursuant to 35 U.S.C. § 103(a)

Claims 1-6

The Examiner rejects claims 1-4 and 6 pursuant to 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,437,999 of Diebold et al. in view of U.S. Patent No. 5,089,320 of Straus et al., U.S. Patent No. 5,095,407 of Kanezawa et al., and a June 2001 Imaging Technologies

Update from Enthone. The Examiner rejects claim 5 pursuant to 35 U.S.C. § 103(a) as being obvious over the same references, further in view of U.S. Patent No. 5,126,034 of Carter et al. and U.S. Patent No. 5,399,256 of Bohs et al.

The most recent rejection filed by the Examiner is exactly the same rejection that the Examiner made prior to entering an Examiner's Amendment on November 17, 2006. As a result of the Examiner's Amendment on November 17, 2006, the Examiner determined that claims 1-6 were each allowable over the prior art, thus obviating his previous rejection. In particular, the Examiner stated the following as his reasons for allowance:

Diebold as modified by Straus, Kanezawa, Enthone, Carter, and Bohs does not have means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration. This means thus "...compensates for variations in temperature and viscosity. The concentration so measured is independent of variations in haematocrit and other substances which affect the diffusion coefficient of the reduced form of the redox species." See page 6, third full paragraph of the specification. There is no suggestion in the combination of references to also measure the diffusion coefficient. Diebold appears to teach away from measuring the diffusion coefficient. Diebold incorporates by reference White '516 as an example of a suitable measuring means or algorithm. See col. 13:09-26. White assumes a constant diffusion coefficient. See col. 01:48 – col. 02:26.

For at least the same reasons stated by the Examiner at the time of the Examiner's Amendment, the same amendments place the claims in a condition for allowance in view of the same prior art references. None of the prior art references cited by the Examiner teach or even suggest having a means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration. In fact, as the Examiner points out in his reasons for allowance, the references cited by the Examiner *teach away* from measuring the diffusion coefficient.

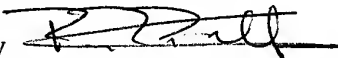
Accordingly, claims 1-6 represent allowable subject matter.

Conclusion

In view of the reasons set forth above, each of the presently pending claims in this application is believed to be in condition for allowance, and reconsideration is respectfully requested. The Examiner is urged to telephone the undersigned Attorney for Applicants in the event that such communication is deemed to expedite prosecution of this matter.

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Respectfully submitted,

By 

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